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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,374	08/07/2001	Erik Dahlman	8194-585	8934

20792 7590 11/16/2005

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EXAMINER	
KUMAR, PANKAJ	
ART UNIT	PAPER NUMBER
2631	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/923,374	**Applicant(s)** DAHLMAN ET AL.	
	Examiner Pankaj Kumar	**Art Unit** 2631	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *69,70 and 72-85*.
   Claim(s) objected to: *10,18-20,29-31,38-44,47,48,52,55,56,62-68 and 90-96*.
   Claim(s) rejected: *1-9,11-17,21-28,32-37,45,46,49-51,53,54,57-61,86-89 and 97-108*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Applicant argues on page 24 that "the decision device ... does not choose between two different symbol estimates for the same symbol along the lines recited, for example, in claim 1" This is not persuasive since applicant has not claimed such as feature at least in claim 1.

Applicant argues on page 25 "Atarius does not ... suggest choosing between two (or more) representations generated for the same symbol". This is not persuasive since applicant has not claimed such a feature.

Applicant argues on page 25 that Atarius only has one demodulation process and implies that the applicant's have more than one demodulation process. This is not persuasive since applicant has not claimed such a feature.

Based on applicant's arguments from above, applicant concludes that Atarius does not teach the entire body of the claim 1. This is not persuasive since applicant's arguments are not supportive of the claims. Applicant has argued elements which have not been claimed at least in claim 1.

Applicant argues on page 26 that the rejection did not provide a motivation to combine Atarius with other references for certain claims such as claim 9. This is not persuasive. The limitations in these dependent claims (i.e. GRAKE) are in applicant's background of the invention (admitted prior art). Since the applicant combined his invention with applicant's background of the invention, the office also combined applicant's invention as anticipated by Atarius with the background of the invention to establish a common understanding of the use of a GRAKE receiver.

As per claim 2, 3, 13, 14, 100 and 101, although the wording is confusing, all that the office is saying is that official notice is taken for system resources to be the same as consumption of energy and that the more data the system outputs, the longer it has to run and thus the more energy or system resources it has to use. Accordingly, it is common knowledge that the longer a system runs, the more energy (resources) it uses. Hence, it takes more energy to generate the first symbol representation than to generate the second symbol representation since the system has to run for a longer period of time and thus use more energy to generate the second symbol representation. Hence, it is common knowledge that generation of the first symbol representation consumes less of a selected resource than generation of the second symbol representation.

M. Ghayour

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